UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,637	02/22/2002	Glen David Stone	SONY-16500	3668

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EXAMINER
MERED, HABTE

ART UNIT	PAPER NUMBER
2616	

MAIL DATE	DELIVERY MODE
05/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	*10/082,637*	STONE ET AL.
	Examiner	Art Unit	
	Habte Mered	2616	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>16 April 2007</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1,3-8 and 10-39*.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet (PTO-303).</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.

13. ☐ Other: _____.

Continuation Sheet (PTO-303)

1.   On cursory consideration the request for reconsideration, which has not been

entered, does not overcome the art rejections presented in the Final Office Action.

Response to Arguments

2.   Applicant's arguments filed 4/16/2007 have been fully considered but they are

not persuasive.

3.   Applicant argues with respect to the 102 rejection of claim 1, in the Remarks on

page 2 in the second paragraph that Romans fails to teach a first type of device

operating according to a first protocol and a second protocol and a second type of

device operating according to only the second protocol.   Basically the Applicant argues

that TDMA and CSMA/CA are not protocols but access mechanisms. Further Applicant

argues that Romans fails to teach that the first protocol has priority over the second

priority.

     Examiner respectfully disagrees with Applicant's conclusions.   In no uncertain

terms Romans teaches a first type of device operating according to a first protocol and

second protocol. The first type device is shown in Figure 2 and is a called a voice and

data node (Column 2:35-37) and the first protocol is a TDMA protocol and the second

protocol is CSMA protocol.   To be precise there are different types of MAC protocols

designed to handle different predominant traffic types taught by Romans. TDMA MAC

protocol is the first protocol designed to handle Isochronous traffic. CSMA/CA MAC

protocol is the second protocol designed to handle Asynchronous traffic and support for

this is clearly spelled out in Romans Column 2:48-67. TDMA MAC, CSMA/MAC, Polling

MAC protocols are also very well known in the art and the Examiner can readily cite

numerous prior arts but it is the position of the Examiner that Romans teaches two

types of protocols namely TDMA MAC and CSMA MAC protocols. If the Applicant has

any doubt for instance CSMA/CA is a protocol and there are different types of MAC

protocols it suffices to see Romans Column 4:44-48 that says CSMA/CA is equivalent to

IEEE 802.11 Wireless MAC and Physical Layer (PHY) specification.

Examiner also disagrees with Applicant's conclusion that Romans fails to teach

first protocol has a priority over the second protocol. Romans teaches priority of the

TDMA/MAC protocol (i.e. 1st protocol) over the CSMA/MAC protocol (i.e. 2nd protocol).

Romans teaches a super frame shown in Figure 4 that is repeated periodically in which

the super frame is divided into Contention Free period for TDMA MAC protocol and

Contention Period for CSMA/CA MAC protocol. Romans teaches that the Contention

Period occupies the remaining or left over portion of the super frame occupied by the

Contention Free period as illustrated in Column 2:7-8 and 13-14. This means at the

beginning of each super frame the allocation of the size of the Contention Period is

totally dependent on the size of the Contention Free Period which is further illustrated in

Column 3:30-31. This means the Contention Free Period which effectively translates

too TDMA MAC protocol has priority over the Contention Period that effectively

translates to CSMA/CA MAC protocol. Hence Romans has clearly spelled out that the

TDMA MAC protocol has priority over CSMA/CA MAC protocol.

4.   Applicant argues, in the Remarks on page 2, 3rd paragraph, that the Final Office

Action in order to teach the limitation of claim 1 that calls for a second type of device

operating according to only the second protocol states that Romans teaches voice

terminals operating according to only the 2nd protocol, isochronous traffic. Examiner

respectfully disagrees. The first point is that Applicant has not cited where exactly in the

Final Office Action has such a statement been made. The second point is that the 2nd

protocol, which is CSMA/CA MAC protocol, does not carry isochronous traffic. The third

point is that the Voice Terminal also referred to as an Isochronous Data Terminal uses

TDMA MAC protocol as illustrated in Romans in Column 2:27-30. Hence, all of the

arguments presented by the Applicant's arguments spelled out in the Remarks in the 3rd

paragraph of page 2 are incorrect and inconsistent based on the three points raised

above.

5.   Applicant argues with respect to the 103 rejection of claim 1, in the Remarks in

the last four lines of page 4, Gulick fails to teach isochronous data has exclusive priority

over asynchronous data. Examiner respectfully disagrees with Applicant's conclusions.

First, claim 1 does not call for isochronous data having exclusive priority over

asynchronous data. Second, given that Applicant agrees that Gulick teaches

asynchronous protocol/data has priority over isochronous protocol/data. Based on this

admission it is very clear that the limitation of claim 1 that calls for a first protocol to

have priority over the second protocol is adequately taught. Further it would be very

obvious to one ordinarily skilled in the art to transpose the priority order and apply it

such that isochronous protocol/data having priority over asynchronous protocol/data. In

fact, Gulick just teaches in Column 7:15-28 that isochronous protocol/data can have

exclusive priority over asynchronous protocol/data.

6.   Items 3 to 5 of this section adequately address all of Applicant's arguments with respect to independent claims 19 and 29.

7.   Applicant argues with respect to the 103 rejection of claim 8, in the Remarks in the last seven lines of page 9, the combination of Banks, Palmer, and Hewitt fail to disclose a third interface configured for coupling to and communicating with the switching device. Examiner respectfully disagrees with Applicant's conclusions. Palmer teaches a third interface configured for coupling to and communicating with the switching device. (See Figure 4A and Column 10, lines 35-45)   Further Examiner has taken the extra step of citing prior arts (e.g. US 5, 450, 411 and US 6, 697, 372) to show that such a limitation are readily taught by these cited prior arts.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Habte Mered whose telephone number is 571 272 6046. The examiner can normally be reached on Monday to Friday 9:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris H. To can be reached on 571 272 7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HM
5-06-2007

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